

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 16906 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ? -No.

2 To be referred to the Reporter or not ? -No.

3 Whether their Lordships wish to see the fair copy
of the judgment ? -No.

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ? -No.

5 Whether it is to be circulated to the civil judge
? -No.

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)
Versus
CHHAGANBHAI V. GAMIT - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner(s) : 1,
MR KISHOR M PAUL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 28/06/2006

ORAL JUDGMENT

Heard learned advocate Mr.H.C.Raval on behalf of the
petitioner. Learned advocate Mr.Kishor M.Paul is

appearing for the respondent-workman.

In the present petition, petitioner corporation has challenged the award passed by the Industrial Tribunal, Surat in Reference (IT) No.6 of 2001 dated 20/1/2005. The Industrial Tribunal, Surat has set aside the order of Review Authority dated 26/2/1999 with a direction to the Corporation to pay difference of salary to the workman.

This Court has issued Rule and interim relief has been granted on 17/8/2005. Today with consent of both the learned advocates, matter has been taken up for final hearing.

Learned advocate Mr.H.C.Raval submitted that Industrial Tribunal has committed gross error in setting aside the punishment order. He also submitted that misconduct committed by the workman is proved in Departmental Inquiry therefore, competent authority by order dated 31/3/1998 imposed punishment of stoppage of one month increment without cumulative effect against which appeal was filed by the workman and during pendency of the appeal, order of review

was passed by the reviewing authority. Then the review authority has issued show cause notice and ultimately by order dated 26/2/1999, the reviewing authority while enhancing punishment, reduced two increments in basic salary with permanent effect. The workman has raised industrial dispute which referred for adjudication. Mr.H.C.Raval, learned advocate submitted that question whether reviewing authority has power to enhance the punishment or not, is pending before the Hon'ble Division Bench of this Court therefore, to await up to decision of the Hon'ble Division Bench or to send the matter before the Division Bench, to be heard with Letters Patent Appeal or other allied matters. He also submitted that legality of Departmental Inquiry was not challenged by the workman therefore, he has no right to raise the contention that reporter was not examined in inquiry. He also raised contention that only punishment imposed where order is set aside by the Tribunal meaning thereby that originally punishment remained as it is. He also submitted that workman has committed serious misconduct of not issuing ticket therefore, punishment imposed by the reviewing authority is just and proper. No

interference is required by the Tribunal. He also raised contention that if contention of respondent, not to examine the reporter, then earlier punishment which is remained as it is having some contradictory situation. Therefore, according to him, industrial tribunal has committed gross error in setting aside the order of the punishment.

The learned advocate Mr.K.M.Paul submitted that Industrial Tribunal has rightly set aside the punishment imposed by the reviewing authority. A detailed, reasoned orders have been passed by the Tribunal. Therefore, according to him, no error committed by the Tribunal and no interference is required by this Hon'ble Court.

I have considered the submissions made by both the learned advocates. I have also perused the award passed by the Industrial Tribunal. The allegation against the workman was that on 27/11/1997, he was on route of Surat to Ukai. At that time, allegations was made against the respondent workman that one passenger traveling from Songadh to GEB and another from Songadh to Ukai were found without tickets. No

fare was collected. In Departmental Inquiry reporter was not examined. This being an undisputed fact, in absence of reporter whatever the charge leveled against the workman can be taken as it is and not proved. However, for imposing minor punishment, no detailed inquiry is required. Initially minor punishment was imposed by the competent authority of stoppage of one month increment without cumulative effect. It amounts to merely a fine of Rs.10/- or Rs.15/- to the workman concerned. Naturally for that, detailed inquiry is not necessary but the reviewing authority while enhancing the punishment, examined major punishment then detailed inquiry is necessary according to the principle of natural justice. Then it is a duty of corporation to examine the reporter and to prove the charge against the workman. The reporter was not examined therefore, charge was not proved against the workman which was mentioned in the charge sheet. That aspect has been rightly considered by the Tribunal and also relying upon the decision of this Court that reviewing authority has no power to enhance the punishment under clause-9 of S.T. Discipline Appeal Procedure. So long decision of the learned single Judge is

remained intact and not set aside by the higher forum. A Tribunal can relied upon that and passed an award, therefore, in my opinion, Industrial Tribunal comprehensively and rightly dealt with the matter and also cogent reason has been given in support of its conclusion. The Industrial Tribunal has not committed any error which require to exercise the power under Section 227 of the Constitution of India. This Court having very limited power under Article 227 of the Constitution of India, in case of Laxmikant v. Pratapsingh, reported in 1995 (6) SCC 576, the Apex Court has observed as under:

"The High Court under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless High Court interferes."

Considering the above observations, according to my opinion, if in this case, High Court interferes, then

it amounts to grave injustice cause to the respondent workman. No error apparently found to be committed by the Tribunal is on record, therefore, interference under Article 227 is not necessary. Therefore, accordingly there is no substance in the petition. Rule discharged. Petition stands dismissed. Petition is accordingly disposed of. Interim relief, if any, stands vacated forthwith.

(H.K.RATHOD, J.)

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